



January 21, 2005

VIA E-MAIL + MAIL

Robert Kelly, Esq.
Office of Transition Administrator
c/o Squires Sanders & Dempsey, LLP
1201 Pennsylvania Ave. NW
P.O. Box 407
Washington, DC 20044-0407
rkelly@ssd.com

Re: FCC Docket No. 02-55, 800 MHz Rebanding;
Notice Re 800 MHz Channel Relocation Plans

Dear Mr. Kelly:

Preferred Communication Systems, Inc. ("Preferred") and its wholly owned subsidiary, Preferred Acquisitions, Inc. ("PAI") are 800 MHz licensees. PAI's thirty-eight (38) General Category EA authorizations are listed in Exhibit 1 enclosed here with and incorporated herein by reference. Preferred's seventy-nine (79) General Category site licenses are listed in Exhibit 2 enclosed herewith and incorporated by reference. These Exhibits identify each license by the EA (or, as to site-based licenses, the EA(s) partially covered by the station's coverage contour) and identify whether the license is an EA or site-based license.

Preferred and PAI do not contend that they were operating an ESMR system (as defined by the FCC in its First Report and Order¹) as of November 22, 2004. However, under the Federal Communications Commission's ("FCC" or "Commission") Supplemental Order and Order on Reconsideration,² as an EA licensee, PAI will have the right to relocate its thirty-eight (38) EA authorizations either in (1) the new Cellular Block (817-824 MHz/862-869 MHz) or (2) the upper end of the new Non-Cellular Block, or (3) leave them in place subject to relocation within the Non-Cellular Block to accommodate the movement of the NPSPAC channels presently in the 821-824 MHz/866-869 MHz portion of the Private Land Mobile Radio Band. Moreover, on December 2, 2004, Preferred has filed a Comment with respect to the clarifications sought by Nextel and certain other participants in the 800 MHz Public Safety Interference proceeding. In addition, on December 22, 2004, Preferred filed a Petition for Reconsideration of the FCC's *First Report and Order*. The numerous issues raised by Preferred in its

¹ *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, as corrected by three *Errata* released September 10, 2004, October 6, 2004 and October 29, 2004, respectively, 19 FCC Rcd. 4969 (2004), summary published, 69 *Fed. Reg.* 67823 (November 22, 2004) ("*First Report and Order*").

² FCC 04-294, released December 22, 2004, not yet published in the *Federal Register* ("*Supplemental Order*").

Comment and Petition for Reconsideration have yet to be addressed, much less resolved by the Commission.

Finally, as noted below, Preferred does contend that it holds constructive ownership of the 800 MHz EA authorizations and site licenses held by third-party licensees with whom it has executed a stock purchase agreement or reached an agreement to purchase such licensee's 800 MHz assets.

Accordingly, Preferred hereby requests that the Transition Administrator, in its forthcoming report and recommended plan to be filed with the FCC on January 31, 2005, in making any recommendation or proposed rebanding with the Private Land Mobile Radio Band, ensure that such proposed rebanding plan will accommodate the relocation of all of PAI's 800 MHz EA-Licensed spectrum into the new Cellular Block and Preferred's 800 MHz Site-Licensed Spectrum into the new Cellular Block or the new Non-Cellular Block immediately adjacent to the new Cellular Block, as Preferred may elect in the future, depending upon the resolution of the numerous issues raised in Preferred's Comment and its Petition for Reconsideration.

In its *First Report and Order* and Supplemental Order and Order on Reconsideration, the Federal Communications Commission granted Nextel Communications, Inc. ("Nextel") constructive ownership of 800 MHz EA authorizations and licenses held by third party licensees with request to which Nextel either (1) holds a minority equity ownership position or (2) has executed a purchase option or management agreement ("Nextel Control Group"). In January 2003 Preferred executed a Stock Purchase Agreement with North Sight Communications, Inc. and Trunked Systems PR, Inc. (the "North Sight Companies").

These Companies constructed a Harmony system covering the island of Puerto Rico as of November 22, 2004. These Companies therefore were operating an ESMR system (as defined by the FCC in its *First Report and Order*) as of that date. North Sight Communications, Inc. holds six (6) 800 MHz general category site licenses and five (5) 800 MHz Lower 80 paired site channels. Trunked Systems PR, Inc. holds five (5) 800 MHz Lower 80 paired site channels. The North Sight Companies General Category site licenses and Lower 80 paired site channels are listed in Exhibit 3 herewith and incorporated by reference. This Exhibit identifies each license by the EA (or, as to site-based licenses, the EA(s) partially covered by the station's coverage contour) and identifies whether the license is an EA or site-based license.

On behalf of these Companies, Preferred elects to move or relocate the General Category site licenses and Lower 80 paired site channels to the new Cellular Block (817-824 MHz/862-869 MHz) on an EA market-wide, Clean and 1:1 basis.

In March 2001, Preferred reached an agreement to purchase all of the 800 MHz SMR assets (except towers) of another 800 MHz SMR licensee and operator in the Puerto Rico EA market. This company, which holds one (1) 800 MHz General Category site license and thirteen (13) Lower 80 paired site channels, previously held an Extended Implementation Authority ("EIA") with respect to these General Category and Lower 80 licenses and certain site licenses in the Upper 200 channels. Upon the expiration of this EIA, this operator elected to have all of its 800 MHz licenses subject to the EIA treated as the equivalent of an EA authorization encompassing their composite outer 22 dBu contour. The General Category site license and thirteen (13) Lower 80 paired site channels are listed in Exhibit 4 enclosed herewith and incorporated herein by reference. This Exhibit identifies each license by the

EA (or, as to site-based licenses, the EA(s) partially covered by the station's coverage contour) and identifies whether the license is an EA or site-based license.

Preferred does not contend that this 800 MHz SMR licensee was operating an ESMR system (as defined by the Commission in its *First Report and Order*) as of November 22, 2004. However, as noted above, under the FCC's *Supplemental Order*, as an EA licensee this 800 MHz licensee will have the right to relocate its General Category site license and thirteen (13) Lower 80 paired site channels to the upper end of the new Non-Cellular Block immediately adjacent to the new Cellular Block. Moreover, as noted above, the Commission has yet to address, much less resolve the numerous issues raised by Preferred in its Comment filed on December 2, 2004, and its Petition for Reconsideration filed on December 22, 2004.

On behalf of this 800 MHz licensee, Preferred accordingly requests that the Transition Administrator, in its forthcoming report and recommended plan to be filed with the FCC on January 31, 2005, in making any recommendation or proposed rebanding with the Private land Mobile Radio Band, ensure that such proposed rebanding plan will accommodate the relocation of all of this Company's 800 MHz EA-Licensed spectrum into the new Cellular Block or the new Non-Cellular Block immediately adjacent to the new Cellular Block, as the Company may elect in the future, depending upon the resolution of the numerous issues raised in Preferred's Comment and its Petition for Reconsideration.

Respectfully submitted,

/s/Charles M. Austin
Charles M. Austin

Encl. (Exhibits 1-4)
cc (w/encl.):

Federal Communications Commission (via ECFS)